

I3kWissA

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

S2 17 Cr. 74 (CM)

5 IBRAHIM ISSA,
6 a/k/a "Tony Issa,"

7
8 Defendant.

Arraignment

9 -----x

10 New York, N.Y.
11 March 20, 2018
12 11:00 a.m.

13 Before:

14 HON. COLLEEN MCMAHON,

15 District Judge

16 APPEARANCES

17 GEOFFREY S. BERMAN
18 Interim United States Attorney for
19 the Southern District of New York
20 NOAH D. SOLOWIEJCZYK
21 ELIZABETH A. HANFT
22 KYLE A. WIRSHBA
23 Assistant United States Attorneys

24 BENJAMIN BRAFMAN
25 Attorney for Defendant

I3kWissA

(Case called)

MR. SOLOWIECZYJK: Good morning, your Honor. Noah Solowiejczyk, Kyle Wirshba and Elizabeth Hanft, on behalf of the government.

MR. BRAFMAN: Good morning, your Honor. Benjamin Brafman, on behalf of Mr. Issa, who is present in court.

THE COURT: Good morning. I understand we have a superseder.

MR. BRAFMAN: Yes, your Honor.

THE COURT: Mr. O'Neill, would you please arraign the defendant on the superseding indictment.

THE CLERK: Mr. Issa, the United States Attorney for the Southern District of New York has filed a superseding indictment, S2 17 Cr. 74. It charges you in eight counts.

Count One charges you with bribing a public official, in violation of Title 18, United States Code, Section 201(b)(1)(A) and (B), and 2.

Count Two charges you with theft of government funds, in violation of 18 United States Code, Section 641.

Count Three charges you with conspiracy, in violation of 18 United States Code, Section 371.

Count Four charges you with tax evasion, in violation of 26 United States Code, Section 7201.

Count Five charges you with aiding and assisting the submission of false tax returns, in violation of 26 United

I3kWissA

1 States Code, section 7206(1).

2 And Counts Six through Eight charge you with
3 submission of false tax returns, violations of 26 United States
4 Code, section 7206(2).

5 Have you received a copy of this indictment?

6 THE DEFENDANT: Yes.

7 THE COURT: Have you discussed it with your attorney?

8 THE DEFENDANT: Yes.

9 THE COURT: Mr. Brafman, do you waive further formal
10 reading of this indictment?

11 MR. BRAFMAN: Yes, sir.

12 THE COURT: How do you plead to those charges at this
13 time?

14 THE DEFENDANT: Not guilty.

15 THE COURT: Thank you. Have a seat.

16 What have we added here, government?

17 MR. SOLOWIECZYJK: Your Honor, the defendant was
18 previously charged with bribing a public official and theft of
19 government funds. We've added a number of tax counts. These
20 relate to the defendant's underreporting of personal income as
21 well as not declaring certain corporate funds that he used for
22 his own personal benefit. There is also a conspiracy to evade
23 taxes charge.

24 THE COURT: How many years?

25 MR. SOLOWIECZYJK: Which tax years, your Honor?

I3kWissA

1 THE COURT: Yes. Which tax years?

2 MR. SOLOWIECZYJK: 2012 through 2014, your Honor.

3 THE COURT: OK. We have a trial in a month.

4 Mr. Brafman jumps to his feet.

5 Good morning, Mr. Brafman.

6 MR. BRAFMAN: Good morning, your Honor.

7 I think the last time we were here, the government
8 suggested they might supersede, and I think in colloquy with
9 the Court your Honor indicated that if there was a superseder,
10 depending on what was added, you might revisit the trial date.

11 Most respectfully, given what they've done, they've
12 changed the entire tenor of this case. We were fighting a
13 bribery case, and now we're going to be fighting a substantial
14 tax evasion case.

15 THE COURT: Looks that way to me.

16 MR. BRAFMAN: Yes, your Honor.

17 And I have never engaged the services of a forensic
18 accountant to assist me, hoping that I would not need one.

19 We have talked among ourselves and with the courtroom
20 deputy, and we're hoping that the Court would consider a
21 substantial adjournment of the trial date at the defendant's
22 request, but recognizing that although we have heard about the
23 superseding indictment for months, we only got it last week.

24 THE COURT: OK. Mr. O'Neill told me you were
25 interested in the fall.

I3kWissA

1 MR. BRAFMAN: Yes, your Honor.

2 THE COURT: And of course, Mr. Brafman, I understand
3 for you it presents the same problem as the government and one
4 of my defense attorneys in the Carton case, which is the whole
5 six-week, five-week Jewish holiday period is out of the
6 question. Right?

7 MR. BRAFMAN: That's correct, your Honor.

8 THE COURT: OK. Here's the deal. I wish I had
9 actually thought about the Jewish holidays. I would have put
10 myself in part 1 during the Jewish holidays; it would have been
11 no problem. But I didn't, and I'm in part 1 as soon as they're
12 over, literally. Simcah Torah is at the end. We're starting
13 to read the Bible all over again, and I'm in part 1. And then
14 I gave the last guys who were in here last week right after I
15 get out of part 1.

16 How would you feel, government and Mr. Brafman, since
17 you all seem to want to put this off, about the 26th of
18 November?

19 MR. BRAFMAN: I would feel good.

20 MR. SOLOWIECZYJK: No objection from the government,
21 your Honor.

22 THE COURT: In that case, at the defendant's request
23 and with his consent, we will change the trial date to November
24 26, the defendant having waived his speedy trial rights by
25 making the request. And I would like to see you sometime this

I3kWissA

1 summer, I guess, would be a good time to check in.

2 MR. BRAFMAN: OK. Your Honor, I'm open for a status
3 conference during either the month of July or August, mid-July
4 and mid-August. I don't know what the Court's schedule is
5 like, but obviously given your consideration to my schedule,
6 I'll accommodate your Honor.

7 THE COURT: I would appreciate if we could do it in
8 July. I'll be on trial. I can do it, therefore, at the end of
9 the day.

10 THE DEPUTY CLERK: The 24th of July, 4:00.

11 MR. BRAFMAN: I'm sorry. 4:00?

12 THE COURT: Make it 4:30.

13 OK. Time is excluded until the new trial date of the
14 26th of November, the trial having been adjourned at the
15 defendant's request, the defendant's speedy trial rights being
16 substantially overcome by the need to prepare to defend against
17 an entirely new case, or a substantially new case, anyway. I
18 think we were at a three-count indictment and now we're at an
19 eight-count indictment, or something like that. Let's do that.

20 At the next conference, I'll set a schedule for *in*
21 *limine* motions and all of the usual pretrial things, and that
22 will give us a reason to get together. OK?

23 MR. SOLOWIECZYJK: Yes, your Honor.

24 MR. BRAFMAN: Your Honor, the government has provided
25 us significant discovery today and also several days ago, and

I3kWissA

1 we haven't had a chance yet to review it all. Can we be in
2 contact with the government to see if there are going to be any
3 motions and schedule something and then advise the Court?

4 THE COURT: That would be a great idea. Rather than
5 have me impose it from the outside, why don't you be in touch.
6 It's just if you're going to make any substantive motions
7 addressed to the new counts, I'd appreciate having them by,
8 say, July 15.

9 MR. BRAFMAN: That's fine, Judge.

10 THE COURT: Earlier is better, but no later than that.

11 MR. BRAFMAN: That's fine. Thank you very much.

12 THE COURT: Thank you.

13 MR. SOLOWIECZYJK: Thank you, your Honor.

14 (Adjourned)
15
16
17
18
19
20
21
22
23
24
25